

## CANADA

### CRC A/51/41 (1996)

550. The Committee considered the initial report of Canada (CRC/C/11/Add.3) at its 214<sup>th</sup> to 217<sup>th</sup> meetings (CRC/C/11/Add.3) at its 214<sup>th</sup> to 217<sup>th</sup> meetings (CRC/C/SR.214-217), on 24 and 26 May 1995, and adopted, at its 233<sup>rd</sup> meeting, on 9 June 1995, the following concluding observations.

#### (a) Introduction

551. The Committee expresses its appreciation to the State party for its comprehensive report, which follows the Committees's guidelines, and for engaging, through a high-ranking delegation, in a constructive and frank dialogue with the Committee. The Committee welcomes the written information provided by the delegation of Canada in reply to the questions included in the list of issues that was communicated to it before the session, as well as the additional information provided during the course of the discussion, which enabled the Committee to assess better the situation of the rights of the child in Canada. The Committee further welcomes the additional written information submitted by the State party following the dialogue held with the Committee.

#### (b) Positive factors

552. The Committee appreciates the State party's firm commitment to adopting further measures for the implementation of the rights of the child as recognized in the Convention on the Rights of the Child. The Committee considers especially noteworthy the fact that Canada played a leading role in the drafting process of the Convention and in convening the 1990 World Summit for Children.

553. The Committee notes with satisfaction the general strengthening of the protection of human rights, particularly children's rights, through the Canadian Charter of Rights and Freedoms and through the adoption of legislative measures in the field of children's rights. The Committee also welcomes the establishment of the National Council for Crime Prevention, which specifically purports to implement better the Convention provisions in the area of juvenile justice.

554. The Committee further welcomes the establishment of the Children's Bureau following the World Summit for Children and its role in ensuring that the Convention is taken into account in government policies, as well as in enabling consultations between the authorities and the private and voluntary sectors. The Committee notes with satisfaction the numerous activities undertaken to disseminate information relating to the Convention.

555. The Committee welcomes the commitment expressed by the delegation to adopt measures to face increasing poverty and reduce existing disparities, in spite of difficulties arising from the present economic recession. The Committee notes in this regard the establishment of the Family Support Enforcement Fund intended to help provincial and territorial governments in the field of promotion and protection of children's rights.

556. The Committee welcomes specific action taken by schools and local community services to identify children's disabilities at an early stage.

557. The Committee also takes note of the efforts made by Canada in participating in international projects in cooperation with UNICEF and other governmental or international non-governmental organizations.

(c) Principal subjects of concern

558. The Committee, while taking note of the statement, reflected in the report of the State party, that the federal nature of Canada is a complicating factor in the implementation of the Convention, and that the exact division of responsibilities between federal, provincial and territorial governments over matters affecting children may involve an element of uncertainty, stresses that Canada is bound to observe fully the obligations assumed by ratifying the Convention. The Committee is concerned that sufficient attention has not been paid to the establishment of a permanent monitoring mechanism that will enable an effective system of implementation of the Convention in all parts of the country. Disparities between provincial or territorial legislation and practices that affect the implementation of the Convention are a matter of concern to the Committee. It seems, for instance, that the definition of the legal status of children born out of wedlock being a matter of provincial responsibility may lead to different levels of legal protection of such children in various parts of the country.

559. The Committee notes with concern that the State party made reservations to articles 21 and 37 (c) of the Convention.

560. The Committee expresses its concern about the value of the Convention in domestic law. Certain basic provisions and principles of the Convention, particularly those relating to non-discrimination, the best interests of the child and the respect for the views of the child, have not always been adequately reflected in national legislation and policy-making.

561. The Committee is concerned by the emerging problem of child poverty, especially among vulnerable groups. It is also worried by the increasing number of children who are brought up by single parent families, or in other problematic environments. While appreciating the programs already set up, the Committee emphasizes the need for special programmes and services to provide the necessary care, especially in terms of education, housing and nutrition, for such children.

562. The Committee recognizes the efforts made by Canada for many years in accepting a large number of refugees and immigrants. Nevertheless, the Committee regrets that the principles of non-discrimination, of the best interests of the child and of the respect for the views of the child have not always been given adequate weight by administrative bodies dealing with the situation of refugee or immigrant children. It is particularly worried by the resort by immigration officials to measures of deprivation of liberty of children for security or other related purposes and by the insufficient measures aimed at family reunification with a view to ensuring that it is dealt with in a positive, humane and expeditious manner. The Committee specifically regrets the delays in dealing with reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada as well as cases where refugee or immigrant

children born in Canada may be separated from their parents facing a deportation order.

563. Further measures seem to be needed to effectively prevent and combat all forms of corporal punishment and ill-treatment of children in schools or in institutions where children may be placed. The Committee is also preoccupied by the existence of child abuse and violence within the family and the insufficient protection afforded by the existing legislation in that regard.

564. The Committee further notes the urgent need to ensure adequate protection of children from harmful information, and particularly from television programmes inciting or containing violence.

565. The increasing incidence of suicide among young people is an additional cause for concern.

566. While recognizing the steps already taken, the Committee notes with concern the special problems still faced by children from vulnerable and disadvantaged groups, such as aboriginal children, with regard to the enjoyment of their fundamental rights, including access to housing and education.

(d) Suggestions and recommendations

567. The Committee wishes to encourage Canada to review its reservations to the Convention and to consider the possibility of withdrawing them, and would like to be kept informed of developments on this fundamental matter.

568. The Committee encourages the State party to pursue and develop its policy aimed at disseminating information and increasing public awareness of the Convention. It recommends that a nationwide education campaign be launched, in the framework of the United Nations Decade for Human Rights Education, to sensitize the population at large - including children themselves - to the principles and provisions of the Convention, and that consideration be given to incorporating the rights of the child in the school curricula. At the same time, the State party should integrate the Convention into the training curricula for professional groups dealing with children, especially judges, lawyers, immigration officers, peace-keepers and teachers.

569. The Committee recommends that the State party strengthen the cooperation between mechanisms existing in its legal and administrative framework and enhance the coordination between federal, provincial and territorial authorities in the field of children's rights with a view to eliminating any possibility of disparity or discrimination in the implementation of the Convention and ensuring that the Convention is fully respected in all parts of its territory. The Committee also recommends that emphasis be placed on federal monitoring mechanisms - such as the Committee of Officials on Human Rights - with a view to making them more effective. The establishment of a comprehensive network for the collection of data covering all areas of the Convention and taking into account all groups of children within Canadian jurisdiction is recommended. Cooperation in the field of the rights of the child between the authorities and non-governmental organizations as well as aboriginal communities should also be further strengthened.

570. The Committee encourages the Government of Canada to ensure the full implementation of article 4 of the Convention in the light of the general principles of the Convention, in particular the

best interests of the child. Available resources should be allocated to their maximum extent to ensure the implementation of economic, social and cultural rights. The Committee also emphasizes the need to take immediate steps to tackle the problem of child poverty and make every feasible effort to ensure that all families, particularly single parent families, have adequate resources and facilities.

571. The Committee also encourages the State party to use the principles and provisions of the Convention as a framework for the programme of international development assistance.

572. In view of the fact that the Convention can only be referred to before the courts as a means of interpretation of national legislation, the Committee recommends that further steps be taken to ensure the effective implementation of the Convention at the national level. In this regard, the Committee also wishes to emphasize the importance of taking action to ensure that the general principles of the Convention, particularly those relating to non-discrimination, the best interests of the child and the respect for the views of the child as guaranteed under articles 2, 3 and 12, respectively, are reflected in domestic law. With regard to article 12 in particular, it is recommended that children be provided with the opportunity to be heard in judicial and administrative proceedings.

573. The Committee recommends that the State party pay particular attention to the implementation of article 22 of the Convention as well as of the general principles of the Convention, in particular the best interests of the child and respect for his or her views, in all matters relating to the protection of refugee and immigrant children, including in deportation proceedings. The Committee suggests that every feasible measure be taken to facilitate and speed up the reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada. Solutions should also be sought to avoid expulsions causing the separation of families, in the spirit of article 9 of the Convention. More generally, the Committee recommends that the Government address the situation of unaccompanied children and children having been refused refugee status and awaiting deportation in the light of the Convention's provisions. Deprivation of liberty of children, particularly unaccompanied children, for security or other purposes should only be used as a measure of last resort in accordance with article 37 (b) of the Convention.

574. The Committee suggests that the State party examine the possibility of reviewing the penal legislation allowing corporal punishment of children by parents, in schools and in institutions where children may be placed. In this regard and in the light of the provisions set out in articles 3 and 19 of the Convention, the Committee recommends that the physical punishment of children in families be prohibited. In connection with the child's right to physical integrity as recognized by the Convention, namely in its articles 19, 28 and 37, and in the light of the best interests of the child, the Committee further suggests that the State party consider the possibility of introducing new legislation and follow-up mechanisms to prevent violence within the family, and that educational campaigns be launched with a view to changing attitudes in society on the use of physical punishment in the family and fostering the acceptance of its legal prohibition.

575. The Committee recommends that the State party strengthen its efforts to ensure that children from vulnerable and disadvantaged groups, such as aboriginal children, benefit from positive measures aimed at facilitating access to education and housing. Research should be developed on the problems relating to the growing rate of infant mortality and suicide among children within

aboriginal communities.

576. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report presented by Canada be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee.

## **CRC CRC/C/133 (2003)**

51. The Committee considered the second periodic report of Canada (CRC/C/83/Add.6) at its 894th and 895th meetings (see CRC/C/SR.894 and 895), held on 17 September 2003, and adopted at the 918th meeting, held on 3 October 2003 (see CRC/C/SR.918), the following concluding observations.

### **A. Introduction**

52. The Committee welcomes the submission of the State party's second periodic report and the detailed written replies to its list of issues (CRC/C/Q/CAN/2), which give updated information on the situation of children in the State party. However, the submission of a synthesis report based on both federal and provincial reports would have provided the Committee with a comparative analysis of the implementation of the Convention and a more coordinated and comprehensive picture of the valuable measures adopted by Canada to implement the Convention. It notes with appreciation the high-level delegation sent by the State party and welcomes the positive reactions to the suggestions and recommendations made during the discussion.

### **B. Follow-up measures undertaken and progress achieved by the State party**

53. The Committee is encouraged by numerous initiatives undertaken by the State party and it looks forward to the completion of the National Plan of Action for Children which will further structure such initiatives and ensure their effective implementation. In particular, the Committee would like to note the following actions and programmes:

1. The National Children Agenda;
2. National Child Benefit;
3. The establishment of the Secretary of State for Children and Youth;
4. The Federal-Provincial-Territorial Council of Ministers on Social Policy Renewal;
5. The Social Union Framework Agreement;
6. Enactment of Bill C-27 amending the Criminal Code;
7. Canada School Net;
8. Gathering Strength: Canada's Aboriginal Action Plan;
9. The constructive role played by the Canadian International Development Agency (CIDA) to assist developing countries in fulfilling the rights of their children and the declaration by the head of the delegation that Canada will double its international aid by 2010.

### **C. Principal areas of concern and recommendations**

## 1. General measures of implementation

### The Committee's previous recommendations

54. The Committee, while noting the implementation of some of the recommendations (CRC/C/15/Add.37 of 20 June 1995) it made upon consideration of the State party's initial report (CRC/C/11/Add.3), regrets that the rest have not been, or have been insufficiently, addressed, particularly those contained in: paragraph 18, referring to the possibility of withdrawing reservations; paragraph 20, with respect to data collection; paragraph 23, relating to ensuring that the general principles are reflected in domestic law; paragraph 24, relating to implementation of article 22; paragraph 25, suggesting a review of the penal legislation that allows corporal punishment. The Committee notes that those concerns and recommendations are reiterated in the present document.

55. The Committee urges the State party to make every effort to address those recommendations contained in the concluding observations on the initial report that have not yet been implemented and to provide effective follow-up to the recommendations contained in the present concluding observations on the second periodic report.

### Reservations and declarations

56. The Committee notes the efforts of the Government towards the removal of the reservation to article 37 (c) of the Convention, but regrets the rather slow process and regrets even more the statement made by the delegation that the State party does not intend to withdraw its reservation to article 21. The Committee reiterates its concern with respect to the reservations maintained by the State party to articles 21 and 37 (c).

57. In light of the 1993 Vienna Declaration and Programme of Action, the Committee urges the State party to reconsider and expedite the withdrawal of the reservations made to the Convention. The Committee invites the State party to continue its dialogue with the Aboriginals with a view to the withdrawal of the reservation to article 21 of the Convention.

### Legislation and implementation

58. The Committee notes that the application of a considerable part of the Convention falls within the competence of the provinces and territories, and is concerned that this may lead, in some instances, to situations where the minimum standards of the Convention are not applied to all children owing to differences at the provincial and territorial level.

59. The Committee urges the Federal Government to ensure that the provinces and territories are aware of their obligations under the Convention and that the rights in the Convention have to be implemented in all the provinces and territories through legislation and policy and other appropriate measures.

### Coordination, monitoring

60. The Committee notes with satisfaction the launching in 1997 of the “National Children’s Agenda” multisectoral initiative and the creation of the position of Secretary of State for Children and Youth. However, the Committee remains concerned that neither the Continuing Committee of Officials on Human Rights nor the Secretary of State for Children and Youth is specifically entrusted with coordination and monitoring of the implementation of the Convention.

61. The Committee encourages the State party to strengthen effective coordination and monitoring, in particular between the federal, provincial and territorial authorities, in the implementation of policies for the promotion and protection of the child, as it previously recommended (CRC/C/15/Add.37, para. 20), with a view to decreasing and eliminating any possibility of disparity or discrimination in the implementation of the Convention.

#### National plan of action

62. The Committee notes the introduction in January 1998 of the “Gathering Strength: Canada’s Aboriginal Action Plan” and is encouraged by the preparation of a national plan of action in accordance with the Convention on the Rights of the Child and the final outcome document of United Nations General Assembly Special Session on Children, (“A World Fit For Children”). It is also encouraged by Canada’s conviction that actions in this respect must be in conformity with the Convention.

63. The Committee encourages the State party to ensure that a coherent and comprehensive rights-based national plan of action is adopted, targeting all children, especially the most vulnerable groups including Aboriginal, migrant and refugee children; with a division of responsibilities, clear priorities, a timetable and a preliminary allocation of necessary resources in conformity with the Convention at the federal, provincial, territorial and local levels in cooperation with civil society. It also urges the Government to designate a systematic monitoring mechanism for the implementation of the national plan of action.

#### Independent monitoring

64. The Committee notes that eight Canadian provinces have an Ombudsman for Children but is concerned that not all of them are adequately empowered to exercise their tasks as fully independent national human rights institutions in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134 of 20 December 1993, annex). Furthermore, the Committee regrets that such an institution at the federal level has not been established.

65. The Committee recommends that the State party establish at the federal level an ombudsman’s office responsible for children’s rights and ensure appropriate funding for its effective functioning. It recommends that such offices be established in the provinces that have not done so, as well as in the three territories where a high proportion of vulnerable children live. In this respect, the Committee recommends that the State party take fully into account the Paris Principles and the Committee’s general comment No. 2 on the role of national human rights institutions.

#### Allocation of resources

66. The Committee welcomes the information provided in the report relating to the Government's contribution to the fulfilment of the rights of the child through allocating resources to a number of initiatives and programmes, notably the National Child Benefit (NCB) system aimed at improving the well-being of Canadian children living at risk by reducing and preventing child poverty. However, the Committee reiterates concerns expressed by the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, para. 22) and the Human Rights Committee (CCPR/C/79/Add.105, paras. 18, 20) relating to modalities of implementing NCB in some provinces.

67. The Committee invites the State party to use its regular evaluation of the impact of the National Child Benefit system and its implementation in the provinces and territories to review the system with a view to eliminating any negative or discriminatory effects it may have on certain groups of children.

68. The Committee recommends that the State party pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations so as to ensure implementation of the economic, social and cultural rights of children, in particular those belonging to marginalized and economically disadvantaged groups, "to the maximum extent of ... available resources". The Committee further encourages the State party to state clearly every year its priorities with respect to child rights issues and to identify the amount and proportion of the budget spent on children, especially on marginalized groups, at the federal, provincial and territorial levels in order to be able to evaluate the impact of the expenditures on children and their effective utilization. The Committee encourages the State party to continue to take measures to prevent children from being disproportionately affected by future economic changes and to continue its support to non-governmental organizations working on the dissemination of the Convention.

#### Data collection

69. The Committee values the wealth of statistical data provided in the annex to the report and in the appendices to the written replies to the list of issues and welcomes the intention of the State party to establish a statistics institute for Aboriginal people. Nevertheless, it is of the opinion that the information is not sufficiently developed, disaggregated and well synthesized for all areas covered by the Convention, and that all persons under 18 years are not systematically included in the data collection relevant to children. The Committee would like to recall its previous concern and recommendation relating to information gathering (CRC/C/15/Add.37, para. 20), maintaining that it has not been addressed sufficiently.

70. The Committee recommends that the State party strengthen and centralize its mechanism to compile and analyse systematically disaggregated data on all children under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups (i.e. Aboriginal children, children with disabilities, abused and neglected children, street children, children within the justice system, refugee and asylum-seeking children). The Committee urges the State party to use the indicators developed and the data collected effectively for the formulation and evaluation of legislation, policies and programmes for resource allocation and for the implementation and monitoring of the Convention.

## 2. General principles

### Non-discrimination

71. The Committee notes positive developments with respect to measures to promote and protect cultural diversity and specific legislative measures regarding discrimination, including the Multiculturalism Act, in particular as it bears upon the residential school system, the Employment Equity Act, and the amendment to the Criminal Code introducing racial discrimination as an aggravating circumstance (see also the 2002 annual report of the Committee on the Elimination of Racial Discrimination (CERD) (A/57/18), paras. 315-343). However, the Committee joins CERD in its concerns, in particular as they relate to children, such as those relating to the Indian Act, to the extent of violence against and deaths in custody of Aboriginals and people of African and Asian descent, to existing patterns of discrimination and expressions of prejudice in the media and to the exclusion from the school system of children of migrants with no status, and remains concerned at the persistence of de facto discrimination against certain groups of children (see also *ibid.*, paras. 332, 333, 335 and 337).

72. The Committee recommends that the State party continue to strengthen its legislative efforts to fully integrate the right to non-discrimination (article 2 of the Convention) in all relevant legislation concerning children, and that this right be effectively applied in all political, judicial and administrative decisions and in projects, programmes and services that have an impact on all children, in particular children belonging to minority and other vulnerable groups such as children with disabilities and Aboriginal children. The Committee further recommends that the State party continue to carry out comprehensive public education campaigns and undertake all necessary proactive measures to prevent and combat negative societal attitudes and practices. The Committee requests the State party to provide further information in its next report on its efforts to promote cultural diversity, taking into account the general principles of the Convention.

73. The Committee, while noting reservations expressed by Canada on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, recommends that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Durban Declaration and Programme of Action and taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

### Best interests of the child

74. The Committee values the fact that the State party holds the principle of the best interests of the child to be of vital importance in the development of all legislation, programmes and policies concerning children and is aware of the progress made in this respect. However, the Committee remains concerned that the principle that primary consideration should be given to the best interests of the child is still not adequately defined and reflected in some legislation, court decisions and policies affecting certain children, especially those facing situations of divorce, custody and deportation, as well as Aboriginal children. Furthermore, the Committee is concerned that there is insufficient research and training for professionals in this respect.

75. The Committee recommends that the principle of “best interests of the child” contained in article 3 be appropriately analysed and objectively implemented with regard to individual and groups of children in various situations (e.g. Aboriginal children) and integrated in all reviews of legislation concerning children, legal procedures in courts, as well as in judicial and administrative decisions and in projects, programmes and services that have an impact on children. The Committee encourages the State party to ensure that research and educational programmes for professionals dealing with children are reinforced and that article 3 of the Convention is fully understood, and that this principle is effectively implemented.

### 3. Civil rights and freedoms

#### Right to an identity

76. The Committee is encouraged by the adoption of the new Citizenship of Canada Act facilitating the acquisition of citizenship for children adopted abroad by Canadian citizens. It is equally encouraged by the establishment of the First Nations Child and Family Service providing culturally sensitive services to Aboriginal children and families within their communities.

77. The Committee recommends that the State party take further measures in accordance with article 7 of the Convention, including measures to ensure birth registration and to facilitate applications for citizenship, so as to resolve the situation of stateless children. The Committee also suggests that the State party ratify the Convention relating to the Status of Stateless Persons of 1954.

### 4. Family environment and alternative care

#### Illicit transfer and non-return

78. The Committee notes with satisfaction that Canada is a party to the Hague Convention on the Civil Aspects of International Child Abduction of 1980 and notes the concern of the State party that parental abductions of children are a growing problem.

79. The Committee recommends that the State party apply the Hague Convention to all children abducted to Canada, encourage States that are not yet party to the Hague Convention to ratify or accede to this treaty and, if necessary, conclude bilateral agreements to deal adequately with international child abduction. It further recommends that maximum assistance be provided through diplomatic and consular channels in order to resolve cases of illicit transfer and non-return in the best interests of the children involved.

#### Adoption

80. The Committee is encouraged by the priority accorded by the State party to promoting the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 in Canada and abroad. However, the Committee notes that while adoption falls within the jurisdiction of the provinces and territories, the ratification of the Hague Convention has not been followed up by legal and other appropriate measures in all provinces. The Committee is also concerned that certain provinces do not recognize the right of an adopted child to know, as far

as possible, her/his biological parents (art. 7).

81. The Committee recommends that the State party consider amending its legislation to ensure that information about the date and place of birth of adopted children and their biological parents are preserved and made available to these children. Furthermore, the Committee recommends that the Federal Government ensure the full implementation of The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 throughout its territory.

#### Abuse and neglect

82. The Committee welcomes the efforts being made by the State party to discourage corporal punishment by promoting research on alternatives to corporal punishment of children, supporting studies on the incidence of abuse, promoting healthy parenting and improving understanding about child abuse and its consequences. However, the Committee is deeply concerned that the State party has not enacted legislation explicitly prohibiting all forms of corporal punishment and has taken no action to remove section 43 of the Criminal Code, which allows corporal punishment.

83. The Committee recommends that the State party adopt legislation to remove the existing authorization of the use of “reasonable force” in disciplining children and explicitly prohibit all forms of violence against children, however light, within the family, in schools and in other institutions where children may be placed.

#### 5. Basic health and welfare

##### Health and health services

84. The Committee is encouraged by the commitment of the Government to strengthening health care for Canadians by, inter alia, increasing the budget and focusing on Aboriginal health programmes. However, the Committee is concerned at the fact, acknowledged by the State party, that the relatively high standard of health is not shared equally by all Canadians. It notes that equal provincial and territorial compliance is a matter of concern, in particular as regards universality and accessibility in rural and northern communities and for children in Aboriginal communities. The Committee is particularly concerned at the disproportionately high prevalence of sudden infant death syndrome and foetal alcohol syndrome disorder among Aboriginal children.

85. The Committee recommends that the State party undertake measures to ensure that all children enjoy equally the same quality of health services, with special attention to indigenous children and children in rural and remote areas.

##### Adolescent health

86. The Committee is encouraged by the average decline in infant mortality rates in the State party, but is deeply concerned at the high mortality rate among the Aboriginal population and the high rate of suicide and substance abuse among youth belonging to this group.

87. The Committee suggests that the State party continue to give priority to studying possible

causes of youth suicide and the characteristics of those who appear to be most at risk, and take steps as soon as practicable to put in place additional support, prevention and intervention programmes, e.g. in the fields of mental health, education and employment, that could reduce the occurrence of this tragic phenomenon.

#### Social security and childcare services and facilities

88. The Committee welcomes measures taken by the Government to provide assistance to families through expanded parental leave, increased tax deductions, child benefits and specific programmes for Aboriginal people. The Committee is nevertheless concerned at reports relating to the high cost of childcare, scarcity of places and lack of national standards.

89. The Committee encourages the State party to undertake a comparative analysis at the provincial and territorial levels with a view to identifying variations in childcare provisions and their impact on children and to devise a coordinated approach to ensuring that quality childcare is available to all children, regardless of their economic status or place of residence.

#### Standard of living

90. The Committee is encouraged to learn that homelessness was made a research priority by the Canada Mortgage and Housing Corporation, as the sources of data are limited. However, the Committee shares the concerns of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, paras. 24, 46) which noted that the mayors of Canada's 10 largest cities have declared homelessness to be a national disaster and urged the Government to implement a national strategy for the reduction of homelessness and poverty.

91. The Committee reiterates its previous concern relating to the emerging problem of child poverty and shares the concerns expressed by the Committee on the Elimination of Discrimination Against Women (CEDAW) relating to economic and structural changes and deepening poverty among women, which particularly affects single mothers and other vulnerable groups, and the ensuing impact this may have on children.

92. The Committee recommends that further research be carried out to identify the causes of the spread of homelessness, particularly among children, and any links between homelessness and child abuse, child prostitution, child pornography and trafficking in children. The Committee encourages the State party to further strengthen the support services it provides to homeless children while taking measures to reduce and prevent the occurrence of this phenomenon.

93. The Committee recommends that the State party continue to address the factors responsible for the increasing number of children living in poverty and that it develop programmes and policies to ensure that all families have adequate resources and facilities, paying due attention to the situation of single mothers, as suggested by CEDAW (A/52/38/Rev.1, para. 336), and other vulnerable groups.

#### 6. Education, leisure and cultural activities

94. The Committee values the exemplary literacy rates and high level of basic education in the State party and welcomes the numerous initiatives to promote quality education, both in Canada and at the international level. The Committee is in particular encouraged by initiatives to raise the standard of education of Aboriginals living on reserves. It further notes the steps taken to address the concern of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, para. 49) relating to addressing financial obstacles to post-secondary education for low-income students. The Committee nevertheless reiterates the concern of the Committee on the Elimination of Racial Discrimination (A/57/18, para. 337) about allegations that children of migrants with no status are being excluded from school in some provinces. Furthermore, the Committee is concerned about the reduction in education spending, increasing student-teacher ratios, the reduction of the number of school boards, the high dropout rate of Aboriginal children and the availability of instruction in both official languages only “where numbers warrant”.

95. The Committee recommends that the State party further improve the quality of education throughout the State party in order to achieve the goals of article 29, paragraph 1, of the Convention and the Committee’s general comment No. 1 on the aims of education by, *inter alia*:

(a) Ensuring that free quality primary education that is sensitive to the cultural identity of every child is available and accessible to all children, with particular attention to children in rural communities, Aboriginal children and refugees or asylum-seekers, as well as children from other disadvantaged groups and those who need special attention, including in their own language;

(b) Ensuring that human rights education, including in children’s rights, is incorporated into the school curricula in the different languages of instruction, where applicable, and that teachers have the necessary training;

(c) Ratifying the United Nations Educational, Scientific and Cultural Organization Convention against Discrimination in Education of 1960;

(d) Adopting appropriate legislative measures to forbid the use of any form of corporal punishment in schools and encouraging child participation in discussions about disciplinary measures.

## 7. Special protection measures

### Refugee children

96. The Committee welcomes the incorporation of the principle of the best interests of the child in the new Immigration and Refugee Protection Act (2002) and the efforts being made to address the concerns of children in the immigration process, in cooperation with the Office of the United Nations High Commissioner for Refugees and non-governmental organizations. However, the Committee notes that some of the concerns previously expressed have not been adequately addressed, in particular, in cases of family reunification, deportation and deprivation of liberty, priority is not accorded to those in greatest need of help. The Committee is especially concerned at the absence of:

- (a) A national policy on unaccompanied asylum-seeking children;
- (b) Standard procedures for the appointment of legal guardians for these children;
- (c) A definition of “separated child” and a lack of reliable data on asylum-seeking children;
- (d) Adequate training and a consistent approach by the federal authorities in referring vulnerable children to welfare authorities.

97. In accordance with the principles and provisions of the Convention, especially articles 2, 3, 22 and 37, and with respect to children, whether seeking asylum or not, the Committee recommends that the State party:

- (a) Adopt and implement a national policy on separated children seeking asylum in Canada;
- (b) Implement a process for the appointment of guardians, clearly defining the nature and scope of such guardianship;
- (c) Refrain, as a matter of policy, from detaining unaccompanied minors and clarify the legislative intent of such detention as a measure of “last resort”, ensuring the right to speedily challenge the legality of the detention in compliance with article 37 of the Convention;
- (d) Develop better policy and operational guidelines covering the return of separated children who are not in need of international protection to their country of origin;
- (e) Ensure that refugee and asylum-seeking children have access to basic services such as education and health and that there is no discrimination in benefit entitlements for asylum-seeking families that could affect children;
- (f) Ensure that family reunification is dealt with in an expeditious manner.

#### Protection of children affected by armed conflict

98. The Committee notes that Canada has made a declaration with regard to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict upon ratification, permitting voluntary recruitment into the armed forces at the age of 16 years.

99. The Committee recommends that the State party, in its report on this Optional Protocol, expected next year, provide information on the measures taken to give priority in the process of voluntary recruitment to those who are the oldest, in light of article 38, paragraph 3, of the Convention, and on its efforts to limit recruitment to persons of 18 years and older (and to review legislation accordingly).

#### Economic exploitation

100. The Committee greatly appreciates the fact that Canada has committed resources to work

towards the ending of economic exploitation of children on the international level. However, the Committee regrets the lack of information in the State party report relating to the situation in Canada. Furthermore, it is concerned that Canada has not ratified International Labour Organization Convention No. 138 concerning the Minimum Age for Admission to Employment and is concerned at the involvement of children under 13 years old in economic activity.

101. The Committee recommends that the State party ratify International Labour Organization Convention No. 138 concerning the Minimum Age for Admission to Employment and take the necessary measures for its effective implementation. The Committee further encourages the State party to conduct nationwide research to fully assess the extent to which children work, in order to take, when necessary, effective measures to prevent the exploitative employment of children in Canada.

### Sexual exploitation and trafficking

102. The Committee is encouraged by the role Canada has played nationally and internationally in promoting awareness of sexual exploitation and working towards its reduction, including by adopting amendments to the Criminal Code in 1997 (Bill C-27) and the introduction in 2002 of Bill C-15A, facilitating the apprehension and prosecution of persons seeking the services of child victims of sexual exploitation and allowing for the prosecution in Canada of all acts of child sexual exploitation committed by Canadians abroad. The Committee notes, however, concerns relating to the vulnerability of street children and, in particular, Aboriginal children who, in disproportionate numbers, end up in the sex trade as a means of survival. The Committee is also concerned about the increase of foreign children and women trafficked into Canada.

103. The Committee recommends that the State party further increase the protection and assistance provided to victims of sexual exploitation and trafficking, including prevention measures, social reintegration, access to health care and psychological assistance, in a culturally appropriate and coordinated manner, including by enhancing cooperation with non-governmental organizations and the countries of origin.

### Street children

104. The Committee regrets the lack of information on street children in the State party's report, although a certain number of children are living in the street. Its concern is accentuated by statistics from major urban centres indicating that children represent a substantial portion of Canada's homeless population, that Aboriginal children are highly overrepresented in this group, and that the causes of this phenomenon include poverty, abusive family situations and neglectful parents.

105. The Committee recommends that the State party undertake a study to assess the scope and the causes of the phenomenon of homeless children and consider establishing a comprehensive strategy to address their needs, paying particular attention to the most vulnerable groups, with the aim of preventing and reducing this phenomenon in the best interest of these children and with their participation.

### Juvenile justice

106. The Committee is encouraged by the enactment of new legislation in April 2003. The Committee welcomes crime prevention initiatives and alternatives to judicial procedures. However, the Committee is concerned at the expanded use of adult sentences for children as young as 14; that the number of youths in custody is among the highest in the industrialized world; that keeping juvenile and adult offenders together in detention facilities continues to be legal; that public access to juvenile records is permitted and that the identity of young offenders can be made public. In addition, the public perceptions about youth crime are said to be inaccurate and based on media stereotypes.

107. The Committee recommends that the State party continue its efforts to establish a system of juvenile justice that fully integrates into its legislation, policies and practice the provisions and principles of the Convention, in particular articles 3, 37, 40 and 39, and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System. In particular, the Committee urges the State party:

(a) To ensure that no person under 18 is tried as an adult, irrespective of the circumstances or the gravity of his/her offence;

(b) To ensure that the views of the children concerned are adequately heard and respected in all court cases;

(c) To ensure that the privacy of all children in conflict with the law is fully protected in line with article 40, paragraph 2 (b) (vii) of the Convention;

(d) To take the necessary measures (e.g. non-custodial alternatives and conditional release) to reduce considerably the number of children in detention and ensure that detention is only used as a measure of last resort and for the shortest possible period of time, and that children are always separated from adults in detention.

#### Children belonging to a minority or indigenous group

108. The Committee welcomes the Statement of Reconciliation made by the Federal Government expressing Canada's profound regret for historic injustices committed against Aboriginal people, in particular within the residential school system. It also notes the priority accorded by the Government to improving the lives of Aboriginal people across Canada and by the numerous initiatives, provided for in the federal budget, that have been embarked upon since the consideration of the initial report. However, the Committee is concerned that Aboriginal children continue to experience many problems, including discrimination in several areas, with much greater frequency and severity than their non-Aboriginal peers.

109. The Committee urges the Government to pursue its efforts to address the gap in life chances between Aboriginal and non-Aboriginal children. In this regard, it reiterates in particular the observations and recommendations with respect to land and resource allocation made by United Nations human rights treaty bodies, such as the Human Rights Committee (CCPR/C/79/Add.105,

para. 8), the Committee on the Elimination of Racial Discrimination (A/57/18, para. 330) and the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.31, para. 18). The Committee equally notes the recommendations of the Royal Commission on Aboriginal Peoples and encourages the State party to ensure appropriate follow-up.

#### 8. Ratification of the Optional Protocols

110. The Committee welcomes the ratification of the Optional Protocol to the Convention on the Rights of the Child on children in armed conflict and the signature in November 2001 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Committee urges the State party to consider early ratification of the latter.

#### 9. Dissemination of documentation

111. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the second periodic report and the written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned non-governmental organizations.

#### 10. Next report

112. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States' responsibilities to children under the Convention includes ensuring that the United Nations Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by State parties is crucial. The Committee recognizes that some State parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports by 11 January 2009, due date of the fourth periodic report. The consolidated report should not exceed 120 pages (see CRC/C/118).